IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN P. MORRIS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	CIVIL ACTION No. 99-5749
	)	
JAMES P. HOFFA, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM

Padova, J. December 28 , 1999

Plaintiffs John P. Morris ("Morris"), Kenneth Woodring ("Woodring"), Elmore Mack ("Mack"), and Harold Fischer ("Fischer") filed the instant Motion for Preliminary Injunction against Defendants James P. Hoffa ("Hoffa" or "General President Hoffa"), and the International Brotherhood of Teamsters ("International" or "IBT") on November 18, 1999, challenging an emergency trusteeship imposed over Local 115 of the International Brotherhood of Teamsters ("Local 115" or "Local") by Hoffa on November 15, 1999. The Court held a hearing on this matter, beginning December 14, 1999, and concluding on December 21, 1999. For the reasons that follow, the Court will grant Plaintiffs' Motion and issue a preliminary injunction enjoining the International from exercising this emergency trusteeship over Local 115.

At the outset, the Court emphasizes that neither the truth of the International's charges against the Local, nor the propriety of Morris' leadership of Local 115, need be determined to rule on the instant Motion. Rather, the sole question this Court is deciding is whether the International removed Plaintiffs from office and imposed the emergency trusteeship in a manner consistent with the democratic process embodied in the legislative scheme of the Labor-Management Reporting and

Disclosure Act ("LMRDA"), 29 U.S.C. § 462, and in the Constitution and Bylaws of the IBT ("IBT Constitution").

I. BACKGROUND

This action arises under Section 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185, and Sections 302 and 304 of the LMRDA, 29 U.S.C. § 462 and 464. This Court has jurisdiction over this matter pursuant to Section 301 of the LMRA, 29 U.S.C. §185; Sections 102 and 304 of the LMRDA, 29 U.S.C. §402 and 464; and 28 U.S.C. §1331.

Plaintiff Morris is the elected Secretary-Treasurer and principal officer of Local 115. Morris has served as principal executive officer of Local 115 since its charter was issued by the IBT on February 4, 1955. Plaintiffs Mack and Fisher are elected Trustees of Local 115. All Plaintiffs were members of the Executive Board of Local 115, and presently constitute the majority of that Board under the Bylaws of Local 115. Plaintiffs are all "members in good standing" of Local 115, as that term is defined in 29 U.S.C. §402(l). All Plaintiffs were removed from their offices on November 15, 1999, by action taken by the IBT's temporary trustee.

Defendant IBT is an unincorporated association. The IBT is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act ("NLRA"), 29 U.S.C. § 152(5); Section 301(a) of the LMRA, 29 U.S.C. § 185(a); and Section 3(i) and (f) of the LMRDA, 29 U.S.C. § 402(i),(f). The IBT maintains its principal place of business at 25 Louisiana Avenue, N.W., Washington, D.C.

Defendant Hoffa is the General President of the IBT and is named here in both his official and individual capacities. Hoffa was installed as General President of the IBT in mid-March 1999, following a rank-and-file election among the members of the IBT conducted in 1998.

Local 115 is a Pennsylvania unincorporated association and a "labor organization" within the meaning of Section 2(5) of the LMRA, 29 U.S.C.§ 152(5); and within the meaning of Sections 3(i) and (j)(5) of the LMRDA, 29 U.S.C. §402(i) and (j)(5). Local 115 is independently chartered by the IBT, and maintains its principal place of business at 2833 Cottman Avenue, Philadelphia, Pennsylvania. It has approximately 2,800 members employed by approximately seventy separate employers.

Local 115 is a subordinate body of the IBT within the meaning of § 304 of the LMRDA, 29 U.S.C. § 464. The IBT Constitution governs the relationship between the IBT and its subordinate local unions, including Local 115. The IBT Constitution constitutes a contract between the IBT and its locals. See 29 U.S.C. § 185.

By letter dated November 14, 1999, General President Hoffa appointed Edward F. Keyser, Jr. ("Keyser"), as trustee over the affairs of Local 115, effective November 15, 1999. The same day, Hoffa issued a Notice to the Officers and Members of Local Union No. 115 ("Notice" or "November 14, 1999 Notice"), informing the Local of the reasons for the trusteeship. On November 15, 1999, Keyser and representatives of General President Hoffa served the Notice and Letters of Appointment upon the officers of Local 115. Morris, Mack and Fisher were removed from their Local 115 positions effective November 15, 1999. Morris was also removed from his other union positions as President of Joint Council 53 and President of the Pennsylvania Conference of Teamsters on November 15, 1999.

The November 14, 1999 Notice enumerates sixteen reasons that, according to Hoffa, required "immediate action to protect the membership," and hence, necessitated an emergency trusteeship. These grounds included both general and specific allegations of violence and intimidation under the leadership of Morris, dating back to 1955 but increasing in recent years. The Notice alleges that

Morris and his Business Agents "viciously abused," "physically threatened," and in some instances physically assaulted members whom Morris perceived as disloyal. The Notice further claims that Morris was preparing to wage a "war" against his enemies. Toward this end, he purportedly directed Local 115 to purchase stun guns, military clothing and a variety of tractors, trailers, and buses, in addition to converting union buildings to "barracks."

The Notice charges Morris with various financial improprieties.[1] Specifically, Hoffa accuses Morris of directing members to perform "extensive renovations and repairs on [Morris'] house" while still on the time clock for their employers, a practice that Morris allegedly sanctioned "for years." Furthermore, the Notice also accuses Morris of requiring stewards to collect cash from members for an annual Christmas gift for Morris, and of retaliating against non-contributors by depriving them of opportunities to work overtime. In addition, the Notice charges Morris with altering Local 115's Health and Welfare Plan to suit his personal needs. Finally, the Notice alleges that Morris used Local funds to subsidize educational course work and expenses for family members which were unrelated to their union activities.

Of particular note, the Notice alleges that Morris instigated the termination of twelve members from their jobs at the Kurz-Hastings plant because they were suspected of disloyalty. Kurz-Hastings, a Northeast Philadelphia company engaged in special coating and printing, employs 120 people represented by Local 115. In August 1999, the company posted an announcement notifying workers that they were not to leave their job-sites without permission of a supervisor. On October 8, 1999, a Local 115 Business Agent visited the plant near the close of the second shift. The Local claims that the Business Agent visited Kurz-Hastings to recruit picketers for an ongoing strike involving another company. While at Kurz-Hastings, the Business Agent noticed that many second

[1]The IBT completed an audit of Local 115's finances in June, 1999.

shift workers were not at their job-sites. The company fired sixteen workers on October 25, 1999, for allegedly "stealing time" from the company on October 8, 1999. Of these sixteen workers, five were reinstated after the Local intervened on their behalf. The other eleven returned to work after the trusteeship was imposed.[2]

In mid-October of 1999, several of the suspended workers contacted Thomas Schatz ("Schatz"), investigator for the International's Ethical Practices Committee,[3] requesting assistance. In their conversations with Schatz, the Kurz-Hastings workers attributed their termination to their support of Local 115 Recording Secretary Jerry McNamara ("McNamara"), and their opposition to Morris. McNamara, himself employed by Kurz-Hastings, also called Schatz on October 18, 1999, and complained of harassment at work by union members because of his disagreements with Morris. This harassment occurred in March 1999, when McNamara was removed from his position as trustee of Local 107 and returned to work at Kurz-Hastings.

In response to these complaints, Schatz contacted Local 115 chief of staff Woodring several times, and was told that the Local was working on the Kurz-Hastings matter. IBT General Counsel Patrick J. Szymanski ("Szymanski") then directed Schatz to interview the "affected members" in person. On or about October 25, 1999, Schatz interviewed two workers, in addition to McNamara,

[2]Plaintiffs contend that prior to the trusteeship, Local 115 had scheduled a grievance meeting with Kurz-Hastings for November 17, 1999, at which time the Local intended to pursue the reinstatement of these workers.

[3]The Ethical Practices Committee holds the authority to investigate complaints from members throughout the country concerning misconduct allegedly committed by union officers or other union members.

Walter DeTreux ("DeTreux"),[4] and Local 115 President Jim Smith ("Smith").[5] Schatz did not interview Morris or other Local 115 officials at any time. Nor did he ever directly contact the employer of the fired workers, Kurz-Hastings. He submitted a report of his findings to Szymanski on October 28, 1999.

Eleven of the fired employees faxed a letter directly to Hoffa on October 29, 1999.[6] In addition to blaming their termination on their opposition to Morris, the letter generally alleged the "deteriorating leadership" of Morris, and described him as a "dictator" and "tyrant." The letter further stated that after their termination, the workers were "threatened, intimidated . . . . and physically bullied" by both Morris and other union officials. The letter concluded with a plea to Hoffa to place Local 115 in trusteeship, and remove Morris from office.

In addition to his October 28, 1999 Report, Schatz prepared two additional reports for Szymanski based on telephone complaints. One caller, Local member Brian Kada ("Kada"), alleged that he was called to the union hall on November 1, 1999, for a meeting with Morris and other Local officials. At the meeting, he alleges that he was verbally abused by Morris and then physically assaulted by a Local 115 Business Agent.[7] Kada testified that he was targeted because of his opposition to Morris. Local 115 denies the charges of intimidation and assault. According to the

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[4]DeTreux is an attorney and was employed by the Local 115 Legal Fund from 1991 until he resigned his position in September, 1998. The Legal Fund is a Local 115 entity that provides legal services to union members.

[5]A long-time member of the Morris inner circle, Smith left his position as president on sick leave in the fall of 1998. Smith attributed his departure to increasing difficulty dealing with what he described as Morris' erratic behavior, including being the target of verbal and physical abuse.

[6]This letter was drafted by DeTreux.

[7] This allegation is also contained in the November 14, 1999 Notice.

Local, the meeting was held to look into charges that Kada was inequitably distributing work in his role as steward for his employer.

The IBT imposed a trusteeship on Local 115 effective November 15, 1999. The IBT did not hold a hearing prior to establishing the trusteeship. On November 22, 1999, Keyser, the appointed trustee, issued a Notice of Trusteeship Hearing scheduling a formal hearing on or about December 9, 1999. The Local, however, requested thatthis hearing be postponed, and filed this action on November 18, 1999. The Local alleges that the International violated the LMRDA, 29 U.S.C. §401 et seq., by imposing a trusteeship without a prior hearing.

II. DISCUSSION

In deciding whether to issue a preliminary injunction, the Court considers the following factors: (1) the extent to which the plaintiff will suffer irreparable injury in the absence of an injunction; (2) the likelihood that the plaintiff will prevail on the merits; (3) the extent to which the defendant will suffer irreparable harm if the preliminary injunction is issued; and (4) the public interest. Doran v. Salem Inn, Inc., 422 U.S. 922, 931, 95 S. Ct. 2561, 2568, 45 L.Ed.2d 648 (1975); Council of Alternative Political Parties v. Hooks, 121 F.3d 876, 879 (3d Cir. 1997); Acierno v. New Castle County, 40 F.3d 645, 653 (3d Cir. 1994) (requiring proof of a reasonable probability of eventual success on the merits). “The injunction shall issue only if the plaintiff produces evidence sufficient to convince the district court that all four factors favor preliminary relief.” New Jersey Hospital Ass'n v. Waldman, 73 F.3d 509, 513 (3d Cir. 1995)(quoted case omitted). Thus, a “plaintiff's failure to establish any element in its favor renders a preliminary injunction inappropriate.” NutraSweet Co. v. Vit-Mar Enterprises, Inc., 176 F.3d 151, 153 (3d Cir.1999).

A. LIKELIHOOD OF SUCCESS ON THE MERITS

The LMRDA, 29 U.S.C. §462, requires that trusteeships be established and administered in accordance with the constitution and bylaws of the labor organization that has assumed trusteeship over the subordinate body and provides a mechanism for civil enforcement of that mandate in federal district court. 29 U.S.C. § § 462, 464(a) (1994). The LMRDA further provides:

> [A] trusteeship established by a labor organization in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing ... shall be presumed valid for a period of eighteen months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for a purpose allowable under section 462 of this title.

29 U.S.C. § 464(c) (1994). Thus, under the statute, a trusteeship will be presumed valid only if it was instituted in procedural conformity with the constitution and bylaws of the parent union. Teamsters Local Union No. 406 v. Crane, 848 F.2d 709, 712 (6th Cir. 1987); Roland v. Air Line Employees Assoc. Int'l, 753 F.2d 1385, 1394 (7th Cir. 1985); Hotel & Restaurant Employees and Bartenders Int'l Union v. Rollison, 615 F.2d 788, 793 (9th Cir. 1980); Local Union 13410, United Mine Workers of Am. v. United Mine Workers of Am., 475 F.2d 906, 914 (D.C. Cir. 1973); Chieco v. International Brotherhood of Teamsters, 983 F. Supp. 396, 400 (S.D.N.Y.), aff'd, 131 F.3d 130 (2d Cir. 1997)(referring to the issue of procedural compliance as whether the parent union had a "valid claim of right" to impose the trusteeship).

1. Burden of Proof

If a local union ("local") proves by a preponderance of the evidence that the proper procedure was not followed, then the trusteeship may be deemed void ab initio. Local 13410, 475 F.2d at 915. But see Markham v. Int'l Assoc. of Bridge, Structural and Ornamental Iron Workers, 901 F.2d 1022, 1028 (11th Cir. 1990)(refusing to adopt a per se rule invalidating trusteeships imposed prior to a

hearing when no emergency situation existed and instead placing the decision whether to invalidate in the discretion of the district court); Chieco, 983 F. SUPP. at 400, aff'd 131 F.3d 130, 1997 WL 753311, at *1 (requiring local unions to additionally show bad faith or improper purpose by a preponderance of the evidence before enjoining trusteeships). Conversely, where the local fails to show that the trusteeship was not properly established under the union constitution and bylaws, then the trusteeship is presumed valid. In this situation, the local must prove by clear and convincing evidence that either the parent union acted in bad faith in establishing the trusteeship or did so for a purpose that is not allowed under 29 U.S.C. §462. IBT v. Local Union No. 810, 19 F.3d 786, 791 (2d Cir. 1994); Markham, 901 F.2d at 1025-26; Crane, 848 F.2d at 712. This burden remains even where a temporary trusteeship is imposed prior to an internal union hearing, as long as the union constitution allows the imposition of emergency trusteeships and the union follows the procedures outlined in the constitution and bylaws. Local 810, 19 F.3d at 791.

2. IBT Constitution

The IBT Constitution generally allows imposition of a trusteeship in two situations. First, a trusteeship may be established where the General President has or receives information which leads him to believe that:

> (1) any of the officers of a local union or other subordinate body are dishonest or incompetent;
> (2) the local union is not being conducted in accordance with the Constitution and laws of the International Union or for the benefit of the membership; or
> (3) the local union is being conducted in a manner to jeopardize the interests of the international union;

IBT Constitution Art. VI § 5. Second, the General President may impose a trusteeship where he believes that a trusteeship is necessary to:

> (1) correct corruption;

(2) correct financial malpractice;
(3) assure the performance of collective bargaining agreements or other duties of a bargaining representative;
(4) restore democratic procedures;
(5) prevent interference with the performance of obligations of other members or local unions under collective bargaining agreements; or
(6) otherwise carry out legitimate objects of the local union.

Id. Normally the General President must hold a hearing prior to imposing a trusteeship on a local union. Id. However, a trusteeship may be imposed without a prior hearing if the General President decides that an emergency situation exists within the local and commences a hearing within 30 days following imposition of the trusteeship. Id.

3. Emergency Situation

The threshold issue is whether the International imposed the trusteeship in procedural conformity with the IBT Constitution and Bylaws. While the IBT Constitution allows the General President to impose a trusteeship without first holding a hearing if an "emergency situation" exists, the Constitution does not define what constitutes such an emergency. Courts, therefore, have attempted to formulate a definition consistent with legislative intent.

In a case in this district, Judge Harvey Bartle, III, held that to "properly invoke" the emergency situation provision, the union official must have a "good faith belief" that an emergency situation existed. IBT Local 107 v. IBT, 935 F. Supp. 599, 601 (E.D. Pa. 1996) (citing IBT v. Local Union Number 810, 19 F.3d 786, 793 (2d Cir. 1994)). Elaborating on this "good faith belief" standard, Judge Bartle opined that the official must reasonably believe that an emergency situation exists which does not allow time for a prior hearing. IBT Local 107, 935 F. Supp. at 601 (citing Hardy v. Int'l Bhd. of Boilermakers, 682 F. Supp. 1323, 1328 (E.D. Pa. 1988)). See also Roland, 753 F.2d at 1394; Rollison, 615 F.2d at 792; Retail Clerks Union, Local 770 v. Retail Clerks Int'l Union,

479 F.2d 54, 55 (9th Cir. 1973) (using the "reasonable belief" standard as an alternative to the "good faith belief" test for the existence of an emergency situation requiring imposition of a trusteeship).[8]

Judge Bartle next defined "emergency" according to Webster's Collegiate Dictionary (9th ed. 1989) as "an unforeseen combination of circumstances or the resulting state that calls for immediate action." Local 107, 935 F. SUPP. at 602. Therefore,

> [i]n order to comply with the procedural mandates of its constitution, the general president must have had a good faith belief that a situation within the local was developing suddenly and unexpectedly or through an unforeseen combination of circumstances; that the situation was one implicating corruption, financial malpractice or undemocratic procedures; and that the circumstances demanded immediate action.

Id.(citing Local 810, 19 F.3d at 793)(emphasis added).

To support a reasonable or good faith belief in the existence of an emergency condition, courts require as a bare minimum allegations of wrongdoing that are ongoing and continuous up until the present day. See IBT v. Local Union 745, 938 F. Supp. 1186, 1195 (S.D.N.Y.), aff'd, 109 F.3d 846 (2d. Cir. 1997); Local 107, 935 F. Supp. at 602. Even where a practice (even if illegal or improper) is continuously engaged in over a long period of time, if the practice is not concealed, then the parent union's recent discovery of that practice generally can not constitute an emergency. Retail, Wholesale, Dep't Store Union, AFL-CIO-CLC v. Nat'l Union of Hosp. and Health Care Employees, 577 F. Supp. 29, 33 (S.D.N.Y. 1984)(stating "[i]t is not a sufficient ground for asserting

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[8]In practice, Judge Bartle's opinion shows that there is not much difference between the two wordings. See Local 107, 935 F. Supp. at 601. Most courts emphasize that they cannot invalidate a reasonably held view that the situation in the local union constituted an emergency by relying on hindsight or the court's own opinion. See Local 810, 19 F.3d at 793 (citing cases). For this reason, the local union cannot merely contest the truth of the allegations upon which the parent union relies to justify its determination that an emergency situation existed, but rather must show that the parent union's view was unreasonable or lacked good faith. Local 810, 835 F. Supp. 727, 731 (S.D.N.Y. 1993), aff'd, 19 F.3d 786 (2d. Cir. 1994).

an 'emergency' ... that the [parent union's] awareness of that which was not being concealed, and indeed was being published and distributed, occurred suddenly or unexpectedly"). New facts that exacerbate old longstanding improprieties, however, can adequately support a parent union's determination. Where the parent union did know or could have known about a continuing improper practice, "fresh" allegations of the misconduct may be sufficient to constitute an emergency. Chieco, 131 F.3d 130, 1997 WL 753311, at *2; Local Union 745, 938 F. Supp. at 1195.

4. The Instant Dispute

Congress' purpose in enacting the LMRDA was "to ensure that local affairs are governed by local members under democratic processes, with a minimum of outside interference," and to limit the ability of parent unions to establish trusteeships without following the democratic processes outlined in the unions' constitutions. Regan v. Williams, Civ. A. No. 86-643, 1986 WL 8413, at *1-2 (W.D. Pa. May 16, 1986) (citing United Brotherhood of Carpenters & Joiners of America v. Brown, 343 F.2d 876 (10th Cir. 1965)). See also Local Union 13410, UMW v. UMW, 475 F.2d 906, 913 (D.C. Cir. 1973) (opining that "[t]he legislative history of § 464(c), as well as policy considerations, . . . compel a holding that without a hearing a trusteeship is invalid"); accord Plentty v. Laborers' Int. Union of No. America, 302 F. Supp. 332, 339 (E.D. Pa. 1969). The charges leveled at Local 115 in this case are quite serious, and are of grave concern to the Court. However, the truth of the IBT's charges need not be determined for the purpose of deciding this motion. The role of this Court is to ensure that the instant politically-charged controversy is resolved in accordance with the IBT's democratic processes as mandated by Congress and by the IBT Constitution. The individual union members are protected only through adherence to the letter and spirit of the LMRDA and the IBT Constitution. Toward that end, the relevant inquiry is whether General President Hoffa was reasonable or acted in good faith in believing that an emergency situation existed. The Court finds

that the information before Hoffa, at the time he appointed an emergency trustee, does not support a reasonable or good faith belief that an emergency situation existed.[9]

The IBT, both in the Notice of Trusteeship, as well as in testimony and exhibits received at the hearing, makes multiple charges against Local 115 of intimidation and corruption. Most of the allegations are longstanding: many are not dated to a specific point in time, and many others are noted to have gone on for years. Most of the charges, therefore, do not describe situations that appeared to be developing suddenly and unexpectedly, and therefore, the circumstances do not reasonably appear to demand immediate action.

For example, the IBT alleges various financial improprieties, involving the operation of the Local print shop, the purchase of vehicles, the operation of fringe and special benefit funds, the improper handling of Local funds by insufficiently bonded officers, and the "spending down" of Local cash reserves on unnecessary equipment. The IBT, however, audited the Local's finances in May and June of 1999, and received the auditor's preliminary report in June 1999. Thus, for more than five months, the IBT did nothing about the results of the audit. Yet, the IBT now submits to this Court that improprieties pertaining to the Local's finances were part of the sudden, unexpected emergency that required immediate action without a hearing. Such an argument is inconsistent with a good faith belief in the existence of an emergency.

Similarly, the IBT buttresses its claim of emergency with allegations that Morris was stockpiling weapons and military supplies, and making statements about an impending war. Again, this claim does not present a sudden or unexpected situation. While the International is not specific

[9]The Court notes that neither Hoffa nor General Counsel Szymanski testified at the preliminary injunction hearing. The absence of their testimony complicated the Court's task in determining whether Hoffa had a reasonable or good faith belief in the existence of an emergency.

about when it became aware of the "stockpiling," the Local purchased these materials prior to the June audit. Regardless of the true purposes of these materials, the IBT again waited over five months before acting on this information.

Two charges arguably present "fresh allegations" of improprieties which reached Hoffa in October of 1999: (1) the Kurz-Hastings situation; and (2) the Kada incident.[10] Of all the IBT's allegations documented in the November 14, 1999 Notice, the charge that the termination of these workers was instigated by the Local as political retaliation, and that they were subsequently intimidated, and in some cases physically assaulted at union hall meetings, constitutes the most serious allegation of current wrongdoing. Testimony at the hearing, however, established that the information available to Hoffa about this incident at the time he established the trusteeship was incomplete and one-sided. Schatz prepared his report predominantly based on telephone calls and interviews with the fired workers themselves. While Schatz also interviewed Local President Smith, Smith was an outspoken opponent of Morris. Schatz made only four perfunctory telephone calls to Local 115 chief of staff Woodring and failed to interview anyone else from the Local in person. Nor did he interview any representatives of the terminated workers' employer, Kurz-Hastings.

Indeed, at the hearing, Schatz testified that he was unaware of the ongoing problems Kurz-Hastings was having with workers leaving their work stations. He did not know that in August 1999, these problems caused the employer to post notices warning workers that it was impermissible to leave the work-site without a supervisor's permission. He also did not know, as these workers admitted in their testimony, that it was common practice for workers to leave their posts without

[10]The Court finds that these two charges present the most substantial allegations of recent misconduct. While the Notice does refer to other incidents which occurred in the weeks preceding the trusteeship, i.e. alleged firings at Drexel University and the University of Pennsylvania, these incidents involved relatively minor events, and do not support a good faith belief in an emergency.

permission. Schatz acknowledged that had he known these things, his report to Szymanski would have been different. Neither the information from Schatz, nor the letter from the employees themselves, could have indicated to Hoffa that Kurz-Hastings may have had reasons to take action against these employees unrelated to Local 115 politics. Moreover, the evidence at the hearing indicated that the Kurz-Hastings supervisor was informed of the problem concerning workers leaving their posts not by Morris, but by McNamara, one of the disaffected Local officials in the forefront of the movement to oust Morris.

The second "fresh allegation" of impropriety involves Local member Brian Kada. Kada telephoned Schatz on November 1, 1999, and reported that he was intimidated by Morris[11] and punched by a Local Business Agent at a union hall meeting that day. Plaintiffs vigorously deny these allegations. Schatz did not interview Local officials to ascertain their version of events. Again, his investigation was one sided. He was unaware of the Local's contention that Kada was attempting to deflect responsibility for his own alleged improper delegation of work assignments. Such an unsubstantiated report of an individual member does not support a good faith or reasonable belief in the need for an emergency trusteeship.

Courts consider the sufficiency of the information possessed by the General President in determining whether he had a reasonable or good faith belief in the existence of an emergency. Chieco, 131 F.3d 130, 1997 WL 753311, at *2 (finding information from an Independent Review Board[12] ("IRB") report "provided a sufficient basis to form a good faith belief that there was an

[11]The Court notes that despite this and the multitude of other charges against Morris, the IBT chose not to institute disciplinary proceedings against Morris individually. Rather, the IBT chose the more drastic approach of placing Local 115 in trusteeship.

[12]The Independent Review Board is the IBT body established by the Consent Decree of 1989 to investigate allegations of corruption at all levels of the Teamsters' organization. Local Union 745, 938 F. Supp. at 1186.

emergency situation within the local union"); Local Union 745, 938 F. Supp. at 1195 (same). Both the Chieco and Local Union 745 courts considered it important that information in an IRB report formed the basis of the General President's good faith belief. In concluding that the General President had sufficient reason to believe that severe misconduct existed within the Local, the Local Union 745 court focused on the specific investigation stated in the IRB report. Local Union 745, 938 F. Supp. at 1195.

A review of emergency trusteeships imposed by the IBT since 1993 shows that in six of eight cases, the decision was based on the report and recommendation of the IRB. (See Def. Ex. 35). In one case where no IRB report was available, the trusteeship was established pursuant to the request and resolution of the local union Executive Board itself. (Id.) In the other case where the decision was made without IRB input, Hoffa had appointed three personal representatives to work with local union officials in an attempt to obviate the need for a trusteeship. (Id.) These representatives interfaced with Hoffa and the local for two months; only then did Hoffa concede the effort a failure and institute the emergency trusteeship. Thus, in all eight prior cases of emergency trusteeships, the General President based his decision to institute the trusteeship on more substantial information than was available in the instant case. Here, by contrast, Hoffa lacked an IRB report. Moreover, Schatz' investigation for the Ethical Practices Committee was neither balanced nor even-handed and lacked significant information which was readily available and easily ascertainable. .

For these reasons, the Court concludes that Plaintiffs have a reasonable likelihood of proving that the information available to Hoffa at the time he decided to impose an emergency trusteeship on Local 115 was insufficient to provide him with a good faith belief in the existence of an emergency. Accordingly, the Court concludes that the first factor, the likelihood of success on the merits, weighs in favor of granting the preliminary injunction.

B. IRREPARABLE HARM & EQUITIES

To show irreparable harm, a plaintiff must demonstrate the existence of a potential harm that cannot be redressed by a legal or an equitable remedy following a trial or other remedial procedure. Acierno v. New Castle County, 40 F.3d 645, 653 (3d Cir. 1994)(citation omitted). The injury created by the failure to issue the requested injunction must be peculiar enough in nature that later compensation cannot atone for it. Id. Parties seeking a mandatory preliminary injunction that will alter the status quo bear a particularly heavy burden in demonstrating its necessity. Id. In a case like this, however, maintenance of the status quo - the perpetuation of the improper trusteeship- is what creates the harm.

The Court concludes that Plaintiffs have established irreparable harm. Plaintiffs, the elected officials of Local 115, were removed from office as a result of the imposition and continuation of the trusteeship. The trusteeship thus bars these elected officers from performing those duties which they were elected to perform. The LMRDA was enacted to protect a local union's right of self-determination. Plentty, 302 F. Supp. at 339. "The members will be denied their right of self-determination; their right to be represented by their elected leaders. This right in purely local matters is a substantial right, the deprivation of which cannot be meaningfully recompensed." Regan, 1986 WL 8413 at * 3.

Similarly, the public interest clearly favors the protection of democratic process. Defendants' actions, if sanctioned, simply undermine the very processes which this Court is sworn to uphold. While plaintiffs are presently harmed, Defendants have not presented any evidence that they would suffer irreparable harm if a preliminary injunction issues in this case. Therefore, the Court finds that the remaining three elements weigh in favor of granting a preliminary injunction

C. CONCLUSION

Only adherence to the democratic principles of the LMRDA and the IBT constitution will break any pattern of corruption and partisanship that can lead to abuse of power at all levels of the Teamster hierarchy. The Court, therefore, will grant Plaintiffs' Motion For a Preliminary Injunction against the International and Hoffa. Defendants will be preliminarily enjoined from exercising this emergency trusteeship over Local 115, and ordered to return control of Local 115 to its duly elected officers.

III. BOND

Fed. R. Civ. P. 65(c) mandates that the Court require Plaintiffs to post adequate security for costs and damages that may incur to the non-moving party if that party was wrongfully restrained or enjoined. "Although the amount of the bond is left to the discretion of the court, the posting requirement is much less discretionary. While there are exceptions, the instances in which a bond may not be required are so rare that the requirement is almost mandatory." Frank's GMC Truck Center Inc. v. G.M.C., 847 F.2d 100, 103 (3d Cir. 1988). Upon careful consideration of the entire record, the Court will require Plaintiffs to post a bond in the amount of $10,000.00, based on the potential incidental and consequential costs as well as the losses the Defendants will suffer during the period they are enjoined.

An appropriate Order follows.

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	)	
Plaintiffs,	)	
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vs.	)	CIVIL ACTION No. 99-5749
	)	
JAMES P. HOFFA, et al.,	)	
	)	
Defendants.	)	

ORDER

AND NOW, this day of December, 1999, upon consideration of Plaintiffs' Motion for Preliminary Injunction, Defendants' response thereto, and the hearings conducted December 14, 1999, to December 21, 1999, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Preliminary Injunction is **GRANTED**.

Upon payment by Plaintiffs of security in the amount of $10,000 (ten thousand dollars), Defendants are **PRELIMINARILY ENJOINED** from exercising the emergency trusteeship over Local 115 of the International Brotherhood of Teamsters that was imposed on November 15, 1999. Defendants are **ORDERED** to return control of Local 115 to its duly elected officers at or by 10:00 a.m. on Thursday, December 30, 1999.

BY THE COURT:

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John R. Padova, J.